

REMARKS

Claims 1-3, 5, 9-33, 36-38, 41-44, 63 and 65-74 remain with claims 11, 16-32, 63, 65 and 66 withdrawn.

I. “Instant Reaction” (Re Former 35 USC §112 Rejection)

While acknowledging with appreciation the withdrawal of the objection to the specification and withdrawal of the lack-of-definiteness rejection, Applicants wish to clarify the statement on the Continuation Sheet of the outstanding Advisory Action that “the term ‘instant reaction’ has nothing to do with the duration of the reaction.” The term “instant reaction” is elucidated on page 12, lines 21-25, of Applicants’ specification as “advantageous...which means that they can be produced in advance as stock and stored without problem until application without having to be freshly prepared first for the scheduled application in a time-consuming manner” (emphasis added). Additionally, on page 20, lines 14-20, the specification describes that “[a]s a result of the simple type of binding...the process can be simplified insofar as it is only necessary to dip the finished preshaped polymer carrier...into the solution of substance d) in order to then obtain the finished modified system after a predetermined reaction period (instant reaction)” (emphasis added). As stated in Applicants’ earlier response to the Final Office Action, the specification contains ample, definitive, and explanatory content of the term “instant reaction” so as to denote clearly to any skilled artisan that “instant” is not of zero time duration; no skilled artisan would interpret the common term “instant” as meaning a zero-duration (which is not chemically feasible in any context). Explaining that “instant” does not mean zero is not equivalent to saying that “instant” has nothing to do with time.

The term “instant” in the context of the invention refers to a reaction without the addition of any other component. By way of analogy the term is used for immediately soluble freeze dried coffee powder called instant coffee. Typical instant-reaction times for the invention are 15 minutes to 30 minutes with a maximum time being about one hour and a minimum time being a few minutes, which are necessary for the polymer unfolding.

II. Rejections under 35 USC §103

A. *Rejection of claims x-3, 5, 9, 10, 12-15, 33, 36-38, 41-44 and 67-74 under 35 USC §103*

Claims x-3, 5, 9, 10, 12-15, 33, 36-38, 41-44 and 67-74 are rejected as allegedly being obvious over Domb et al. (US 6365173, hereinafter “Domb”) in view of Greenwald et al., “Campthothecin-20-PEG Ester Transport Forms: the Effect of Spacer Groups on Antitumor Activity” (Bioorganic & Medicinal Chemistry 6 (1998) 551-562, hereinafter “Greenwald”). Applicants respectfully traverse this rejection as neither of these references, nor the combination of these references, discloses or suggests the presently claimed copolymer to the exclusion of any other possible copolymer. Applicants submit that the present invention would not have been obvious in view of the combination of Domb and Greenwald.

B. *Rejection of claims 1-3, 5, 9, 10, 12, 14, 15, 33, 36-38, 41-44 and 67-74 under 35 USC §103*

Claims 1-3, 5, 9, 10, 12, 14, 15, 33, 36-38, 41-44 and 67-74 are rejected as allegedly being obvious over Hirosue et al. (US 6254890, hereinafter “Hirosue”) in view of Greenwald. Applicants respectfully traverse this rejection, as the combination of Hirosue with Greenwald does not render the present claimed invention obvious.

C. *Declaration under 37 CFR §1.132*

Applicants hereby incorporate by reference, *mutatis mutandis*, the arguments made in response to previous Office Action(s) traversing the 35 USC §103 prior-art rejections. For further purposes of traversing the grounds of rejection, attached herewith is a Rule 1.132 Declaration in the form of expert testimony on issues, bases, and pertinent facts underlying the ultimate legal issue of whether the claimed invention would have been obvious to one of ordinary skill in the art at the time of the invention.

To the extent the Declaration sets forth fact and opinion evidence, such should be interpreted and entered into the record according to its content without regard to the “Fact” and “Opinion” terms occurring at the beginnings of many of the paragraphs which are provided for formatting, non-substantive purposes only.

In any event, the Declaration as submitted sets forth facts rather than *only* opinion, with the facts presented being germane to the rejections at issue. Furthermore, the showings are relevant to the subject matter as claimed and are commensurate with the scope of the claims, thereby providing an adequate nexus between the merits of the claimed invention and the

evidence (i.e., a factually and legally sufficient connection between the objective evidence of nonobviousness and the claimed invention so that the evidence is of probative value in the determination of nonobviousness). Applicants submit that the evidence introduced by way of the current Declaration is not only proper, probative, and germane to the current rejections of the claims, but also is sufficient to overcome the *prima facie* case(s) alleged by the Examiner.

Reconsideration and withdrawal of all prior-art rejections of record are respectfully solicited.

III. Conclusion

For the reasons presented, Applicants submit that the claims are in condition for allowance, and request reconsideration and withdrawal of the rejections under 35 USC §112 and 35 USC §103. The Examiner is requested to consider the application now to be in condition for allowance, and an early indication of same is requested. Of course, the Examiner is invited to contact the undersigned with any questions.

The Commissioner is hereby authorized to charge any needed fees to Deposit Account 50-1600.

Respectfully submitted,



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Dated: June 21, 2010

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